

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**EARTHA JOHNSON**  
4633 E. 131<sup>st</sup> Street, Apt. 108  
Garfield Heights, Ohio 44105

Plaintiff,

V.

**STEPHENS & MICHAELS  
ASSOCIATES, INC.**  
c/o National Corporate Research LTD  
904 Master Drive  
Galloway, Ohio 43119

Defendant.

) Case No: 1:13-cv-2153  
)  
) JURY DEMAND REQUESTED  
)  
) **CIVIL COMPLAINT**  
) **(Unlawful Debt Collection Practices)**

## COMPLAINT

PLAINTIFF, Eartha Johnson (Plaintiff), by her attorneys, KAHN AND ASSOCIATES, L.L.C., alleges the following against DEFENDANT, Stephens & Michaels Associates, Inc. (Defendant):

# INTRODUCTION

1. Plaintiff's Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).

## JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before “any appropriate United States district court without regard to the amount in controversy,” and *28 U.S.C. 1367* grants this court supplemental jurisdiction over the state claims contained therein.
3. Because Defendant conducts business in Ohio, personal jurisdiction is established.

4. Venue is proper pursuant to 28 *U.S.C. 1391(b)(2)*.

### **PARTIES**

5. Plaintiff is a natural person who resides in the City of Garfield Heights, Cuyahoga County, Ohio and is allegedly obligated to pay a debt, and Plaintiff is a “consumer” as that term is defined by 15 *U.S.C. 1692a(3)*.
6. Pursuant to the definitions outlined in 15 *U.S.C. 1692a(1-6)*, Defendant is a debt collector and sought to collect a consumer debt from Plaintiff which was allegedly due and owing from Plaintiff, and Plaintiff is a consumer debtor.
7. Defendant is a New Hampshire corporation and debt collector with an office in Stiles, New Hampshire.
8. Defendant uses instrumentalities of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a "debt collector" as that term is defined by 15 *U.S.C. § 1692a(6)*.
9. Defendant is a collection agency that in the ordinary course of business, regularly, on behalf of itself or others, engages in debt collection.

### **FACTUAL ALLEGATIONS**

10. Defendant is seeking to collect an allegedly due and owing consumer debt obligation that was incurred for personal, family, or household purposes. Upon information and belief, Defendant is seeking to collect a past due medical account.

11. Plaintiff believes that the debt is no longer due and owing because it was forgiven.
12. Defendant places calls to Plaintiff from telephone number 866.201.0940. Plaintiff receives these calls at her place of employment, telephone number 216.663.4089.
13. Despite the fact that the voicemail at the Plaintiff's place of employment clearly indicates that it is a business establishment, Defendant nevertheless leaves voicemail messages for Plaintiff there that disclose that Defendant is calling regarding an alleged debt.
14. Defendant therefore knows or has reason to know that individuals other than the Plaintiff may intercept such messages that disclose Plaintiff allegedly owes a debt.

### **COUNT I**

#### **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**

15. Defendant violated the FDCPA based on the following:
  - a. Defendant violated §1692d by engaging in conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.
  - b. Defendant violated §1692c(a)(1) by, without the prior direct consent of the consumer, communicating with the consumer at any unusual time or place or a time and place known to be inconvenient to the consumer.
  - c. Defendant violated §1692c(b) by, without the prior direct consent of the consumer, communicating with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor or attorney's creditor, or the debt collector's attorney.

- d. Defendant violated §1692f by using any unfair or unconscionable means to collect or attempt to collect a debt.

WHEREFORE, Plaintiff, Eartha Johnson, respectfully requests judgment be entered against Defendant, for the following:

16. Statutory damages of \$1000.00 pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
17. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
18. Any other relief that this Honorable Court deems appropriate.

**DEMAND FOR JURY TRIAL**

Plaintiff, Eartha Johnson, requests a jury trial in this case.

RESPECTFULLY SUBMITTED,

KAHN & ASSOCIATES, L.L.C.

/s/ J. Daniel Scharville

**J. DANIEL SCHARVILLE (0071132)**

[dscharville@kahnandassociates.com](mailto:dscharville@kahnandassociates.com)

6200 Rockside Woods Blvd., Suite 215

Independence, Ohio 44131

Ph.: (216) 621-6101

Fax: (216) 621-6006

Attorney for the Plaintiff